



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2014-0810; FRL-9923-94-Region 4]

**Approval and Promulgation of Implementation Plans; Tennessee; Emissions Statement
Requirement for the 2008 8-Hour Ozone Standard**

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Tennessee state implementation plan (SIP) submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC) on January 5, 2015, to address the emissions statement requirements for the 2008 8-hour ozone national ambient air quality standards (NAAQS). The revision affects Davidson, Rutherford, Shelby, Sumner, Knox, Blount, Anderson, Williamson, and Wilson Counties. Annual emissions statements are required for certain sources in all ozone nonattainment areas. These changes address requirements for the Knoxville, Tennessee 2008 8-hour ozone NAAQS nonattainment area (hereinafter referred to as the Knoxville Area) and the Tennessee portion of the Memphis, Tennessee-Arkansas-Mississippi 2008 8-hour ozone NAAQS nonattainment area (hereinafter referred to as the Memphis Area). The Knoxville Area is comprised of Knox and Blount County, and a portion of Anderson County, Tennessee, and the Tennessee portion of the Memphis Area is comprised of Shelby County, Tennessee. Davidson, Rutherford, Sumner,

Williamson, Wilson and the remaining portion of Anderson County are not part of an ozone nonattainment area.

DATES: This direct final rule is effective **[Insert date 60 days after publication in the Federal Register]** without further notice, unless EPA receives adverse comment by **[Insert date 30 days after publication in the Federal Register]**. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2014-0810, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: R4-ARMS@epa.gov.
3. Fax: (404) 562-9019.
4. Mail: "EPA-R04-OAR-2014-0810," Air Regulatory Management Section (formerly the Regulatory Development Section), Air Planning and Implementation Branch (formerly the Air Planning Branch), Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth

Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2014-0810. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index.

Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Spann can be reached at (404) 562-9029 and via electronic mail at spann.jane@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50,

the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. 40 CFR 50.15. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the Clean Air Act (CAA or Act) requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Knoxville Area was designated nonattainment for the 2008 8-hour ozone NAAQS on April 30, 2012 (effective July 20, 2012) using 2009-2011 ambient air quality data. *See* 77 FR 30088 (April 30, 2012). At the time of designation, the Knoxville Area was classified as a Marginal nonattainment area for the 2008 8-hour ozone NAAQS. The Memphis Area was designated nonattainment for the 2008 8-hour ozone NAAQS on April 30, 2012 (effective July 20, 2012) using 2008-2010 ambient air quality data. *See* 77 FR 30088 (April 30, 2012). At the time of designation, the Memphis Area was classified as a Marginal nonattainment area for the 2008 8-hour ozone NAAQS.

Based on these nonattainment designations, Tennessee was required to develop SIP revisions addressing ozone nonattainment requirements of the CAA for the Knoxville and Memphis Areas. Specifically, pursuant to CAA section 182(a)(3)(B), Tennessee was required to submit a SIP revision addressing emissions statements for these two Areas.

Ground level ozone is not emitted directly into the air, but is created by chemical reactions between oxides of nitrogen (NO_x) and volatile organic compounds (VOC) in the presence of sunlight. Emissions from industrial facilities and electric utilities, motor vehicle exhaust, gasoline vapors, and chemical solvents are some of the major sources of NO_x and VOC. Section 182(a)(3)(B) of the CAA requires each state with ozone nonattainment areas to submit a SIP revision requiring annual emissions statements to be submitted to the state by the owner or operator of each NO_x or VOC stationary source located within a nonattainment area, showing the actual emissions of NO_x and VOC from that source.¹ The first statement is due three years from the area's nonattainment designation, and subsequent statements are due at least annually thereafter.

On January 5, 2015, Tennessee submitted a SIP revision revising its existing Rule 1200-03-18-.02, "General Provisions and Applicability," which amends its emissions statement requirements to address the Knoxville and Memphis Areas under CAA section 182(a)(3)(B). EPA is now taking action to approve this SIP revision as meeting the requirements of sections 110 and 182(a)(3)(B) of the CAA for those Areas. More information on EPA's analysis of Tennessee's SIP revision is provided below.

II. Analysis of the State's Submittal

Tennessee's January 5, 2015, submission seeks to modify its SIP to reflect recent changes to the emissions statement requirements in State Rule 1200-03-18-.02(8). EPA initially approved this state regulation into Tennessee's SIP in 1995. *See* 60 FR 10504 (February 27,

¹ A state may waive the emission statement requirement for any class or category of stationary sources which emit less than 25 tons per year of VOCs or NO_x if the state meets the requirements of section 182(a)(3)(B)(ii).

1995). At that time, the regulation applied to stationary sources within Davidson, Rutherford, Shelby, Sumner, Williamson, and Wilson Counties. Tennessee modified State Rule 1200-03-18-.02(8) in 2014 to include Anderson, Blount, and Knox counties; clarify that all owners or operators of stationary sources with actual emissions of 25 tons per year or more of VOC or NO_x within these nine counties must generate emissions statements; and allow subject sources in counties that operate their own air pollution program to send these statements to the local permitting authority rather than to the Technical Secretary of the Tennessee Air Pollution Control Board. EPA has determined that this amended regulation meets all of the requirements of CAA section 182(a)(3)(B) for the Knoxville and Memphis Areas because it covers the counties within those nonattainment areas and satisfies the applicability, certification, and other emissions statement criteria contained therein.

III. Final Action

EPA is approving Tennessee's January 5, 2015, SIP revision addressing emissions statement requirements because the State's submission meets the requirements of sections 110 and 182 of the CAA. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days after publication in the Federal Register] without further notice unless the Agency receives adverse comments by [Insert date 30 days after publication in the Federal Register].

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [Insert date 60 days after publication in the Federal Register] and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business

Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [Insert date 60 days after publication in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 13, 2015.

V. Anne Heard,
Acting Regional Administrator,
Region 4.

Therefore, 40 CFR part 52 is amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart RR—Tennessee

2. In §52.2220, table 1 in paragraph (c) is amended by revising the entry “Section 1200-3-18-.02” to read as follows:

§52. 2220 Identification of plan.

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(c) * * *

Table 1 – EPA Approved Tennessee Regulations

| State citation | Title/subject | State effective date | EPA approval date | Explanation |
|---|--------------------------------------|----------------------|---|---|
| ** | ** | * | * | * |
| CHAPTER 1200-3-18 VOLATILE ORGANIC COMPOUNDS | | | | |
| ** | ** | * | * | * |
| Section 1200-3-18-.02 | General Provisions and Applicability | 12/18/2014 | <u>[Insert the date of publication in the Federal Register] [Insert Federal Register citation]</u> | Adds Knox, Blount, and Anderson County to Emissions Statement requirement applicability; clarifies that 25 tons or more NOx sources are |

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|----|----|---|---|--|
| | | | | required to submit in addition to VOC sources; and allows subject sources to send statements to the local permitting authority rather than to the Technical Secretary of the Tennessee Air Pollution Control Board |
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[FR Doc. 2015-04489 Filed: 3/4/2015 08:45 am; Publication Date: 3/5/2015]